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8 BEFORE THE
9 DIVISION OF MEDICAL QUALITY OF THE
10 MEDICAL BOARD OF CALIFORNIA
 DEPARTMENT OF CONSUMER AFFAIRS
 STATE OF CALIFORNIA

11 In the Matter of the Accusation) NO. 04-94-38147
12 Against:)
)
13 JOSE ALBERTO LILLO, M.D.) DEFAULT DECISION
 2020 N. Broadway, Suite 105)
14 Santa Ana, CA 92705) [Gov. Code §11520]
)
15 Physician's and Surgeon's)
 Certificate No. A36763,)
16)
 Respondent.)
17)

18
19 FINDINGS OF FACT

20 1. On or about March 25, 1996, Complainant Ron Joseph,
21 in his official capacity as Executive Director of the Medical
22 Board of California, Department of Consumer Affairs, State of
23 California ("Board"), filed Accusation No. 04-94-38147 against
24 Jose Alberto Lillo, M.D. ("respondent").

25 2. On or about June 8, 1981, the Board issued
26 Physician's and Surgeon's Certificate No. A36763 to respondent.
27 At all times relevant herein, said license was in full force and

1 effect. Respondent's license expired on September 30, 1994, and
2 has not been renewed.

3 3. California Business and Professions Code section
4 2227 provides, in pertinent part, that the Division of Medical
5 Quality of the Board ("Division") may revoke, suspend for a
6 period not to exceed one year, or place on probation, the license
7 of any licensee who has been found guilty under the Medical
8 Practice Act.

9 4. California Business and Professions Code section
10 2234 provides, in pertinent part, that unprofessional conduct
11 includes, but is not limited to, the following:

12 (b) Gross negligence

13 (c) Repeated negligent acts

14 (d) Incompetence.

15 5. California Business and Professions Code section
16 118 provides, in pertinent part:

17 "(b) The suspension, expiration, or forfeiture by
18 operation of law of a license issued by a board in the
19 department, or its suspension, forfeiture, or cancellation
20 by order of the board or by order of a court of law, or its
21 surrender without the written consent of the board, shall
22 not, during any period in which it may be renewed, restored,
23 reissued, or reinstated, deprive the board of its authority
24 to institute or continue a disciplinary proceeding against
25 the licensee upon any ground provided by law or to enter an
26 order suspending or revoking the license or otherwise taking
27 disciplinary action against the license on any such ground."

1 6. California Government Code section 11506 provides,
2 in pertinent part:

3 "(b) The respondent shall be entitled to a hearing on
4 the merits if he files a notice of defense, and any such
5 notice shall be deemed a specific denial of all parts of the
6 accusation not expressly admitted. Failure to file such
7 notice shall constitute a waiver of respondent's right to a
8 hearing, but the agency in its discretion may nevertheless
9 grant a hearing. ..."

10 7. California Government Code section 11520 provides,
11 in pertinent part:

12 "(a) If the respondent fails to file a notice of
13 defense or to appear at the hearing, the agency may take
14 action based upon the respondent's express admissions or
15 upon other evidence and affidavits may be used as evidence
16 without any notice to respondent; ..."

17 8. On or about March 25, 1996, Pamela Mosher, an
18 employee of the Board, sent by regular mail a copy of the
19 Accusation packet (No. 04-94-38147) (Exhibit 1), which included
20 the Accusation, a Statement to Respondent, Government Code
21 sections 11507.5, 11507.6, and 11507.7, the Notice of Defense
22 form (in duplicate), and a Request for Discovery, to the address
23 set forth in the Accusation, 2020 N. Broadway, Suite 105, Santa
24 Ana, California 92705, and to respondent's address of record,
25 23161 Lake Center Drive 200, Lake Forrest, California 92630. On
26 or about April 4, 1996, the aforementioned documents mailed to
27 the Santa Ana address were returned to the Board by the U.S.

1 Postal Service, marked "Return to Sender - Undeliverable as
2 Addressed Forwarding Order Expired." (Exhibit 2.) The documents
3 mailed to the Lake Forrest address were not returned. On
4 April 25, 1996, the Board attempted serving respondent by
5 certified mail with a copy of the Accusation packet both at the
6 address set forth in the Accusation and at the address of record.
7 The aforementioned documents, mailed by certified mail, were
8 returned to the Board by the U.S. Postal Service, on May 6, 1996
9 and May 17, 1996, marked "Return to Sender - Undeliverable As
10 Addressed Forwarding Order Expired" and "Return to Sender-Moved-
11 Left No Address", respectively. (Exhibit 3.) The above-described
12 service was effective as a matter of law pursuant to the
13 provisions of California Government Code section 11505,
14 subdivision (c).

15 9. Respondent failed to file a Notice of Defense
16 within 15 days after service upon him of the Accusation and
17 therefore waived his right to a hearing on the merits of
18 Accusation No. 04-94-38147.

19 10. The Division is authorized to revoke respondent's
20 Physician's and Surgeon's Certificate pursuant to the provisions
21 of the California Business and Professions Code sections 2227 and
22 2234.

23 11. Pursuant to its authority under Government Code
24 section 11520, and based on the evidence before it, the Division
25 finds that the allegations, and each of them, contained in the
26 Accusation No. 04-94-38147 are true.

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1 DETERMINATION OF ISSUES

2 1. Respondent is subject to disciplinary action
3 pursuant to sections 2227 and 2234 of the California Business and
4 Professions Code by reason of Finding of Facts numbers 1 through
5 11, above.

6 DECISION AND ORDER OF THE BOARD

7 Physician's and Surgeon's Certificate No. A36763,
8 heretofore issued to respondent Jose Lillo, M.D., is hereby
9 revoked.

10 An effective date of September 16, 1996, has been
11 assigned to this Order.

12 Pursuant to California Government Code section 11520,
13 subdivision (b), respondent is entitled to make any showing by
14 way of mitigation; however, such showing must be made in writing
15 to the Medical Board of California, 1426 Howe Avenue, Suite 54,
16 Sacramento, CA 95825-3236, prior to the effective date of this
17 decision.

18 Made this 14th day of August, 1996.

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21 IRA LUBELL, M.D., Chair, Panel A
22 FOR THE DIVISION OF MEDICAL QUALITY OF THE
23 MEDICAL BOARD OF CALIFORNIA

24
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EXHIBIT 1

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 SANFORD H. FELDMAN,
Deputy Attorney General
3 California Department of Justice
110 West A Street, Suite 1100
4 Post Office Box 85266
San Diego, California 92186-5266
5 Telephone: (619) 645-2079
6 Attorneys for Complainant

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8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. 04-94-38147
Against:)
12)
13 **JOSE LILLO, M.D.**) **A C C U S A T I O N**
2020 N. Broadway, Suite 105)
Santa Ana, California 92705)
14)
Physician's and Surgeon's)
15 Certificate No. A36763,)
16 Respondent.)
17

18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Ron Joseph, is the Executive Director
21 of the Medical Board of California (hereinafter the "Board") and
22 brings this accusation solely in his official capacity.
23 2. On or about June 8, 1981, Physician's and
24 Surgeon's Certificate No. A36763 was issued by the Board to Jose
25 Lillo, M.D. (hereinafter "respondent"), and at all times relevant
26 to the charges brought herein, this license has been in full
27 force and effect. Said license expired on September 30, 1994.

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1 CAUSES FOR DISCIPLINE

2 (Gross Negligence, Repeated Negligence, Incompetence)

3 5. Respondent Jose Lillo, M.D. is subject to
4 disciplinary action under sections 2227, 2234, 2234(b), 2234(c),
5 and 2234(d) of the Business and Professions Code in that he was
6 grossly negligent, repeatedly negligent, and incompetent in his
7 care and treatment of patient A.A. The facts are as follows:

8 A. On or about the beginning of January 1990,
9 patient A.A. complained of mild vaginal spotting to
10 respondent. She was approximately 32 weeks pregnant.
11 Respondent did not give any specific advice. On or about
12 January 20, 1990, patient A.A. informed respondent she had
13 heavier bleeding. He instructed her to go home and rest.

14 B. On or about January 22, 1990, at
15 approximately 5:00 p.m., the husband of patient A.A. called
16 respondent and told him that the bleeding had increased
17 dramatically, requiring patient A.A. to change her heavy
18 duty sanitary napkin at least one time per hour. Respondent
19 did not see patient A.A., he did not admit her into the
20 hospital, and he did not provide her with further
21 instructions.

22 C. On or about January 23, 1990, patient A.A.
23 awoke surrounded by a pool of blood in her bed. Respondent
24 was immediately notified by patient A.A.'s husband.
25 Respondent advised him to admit the patient to Western
26 Medical Center (which is approximately 45 minutes from their
27 home). The husband informed respondent that they lived

1 approximately 45 minutes from Western Medical Center and his
2 wife would die before they arrived there. The husband
3 called the paramedics, who then took patient A.A. to
4 Whittier Hospital Medical Center which is approximately
5 eight blocks from her home.

6 D. Patient A.A. was admitted and the baby (a
7 healthy male) was taken by Cesarean section. Patient A.A.
8 suffered a massive blood loss and underwent several
9 operations. She was discharged from Whittier Hospital
10 Medical Center on or about April 18, 1990, with the final
11 diagnosis of: (partial) blindness; peripheral neuropathy and
12 inability to ambulate; renal insufficiency; reactive
13 thrombocytosis; seizures; anemia; status post fever; status
14 post ards; and malnutrition followed by status post cardiac
15 arrest times three and postpartum DIC.

16 E. Respondent failed to admit patient A.A. to a
17 hospital for evaluation of her bleeding, for continuous
18 fetal monitoring, for a biophysical profile including a
19 sonogram for possible delivery of the baby, and/or for bed
20 rest. In addition, respondent failed to perform an
21 ultrasound.

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PRAYER

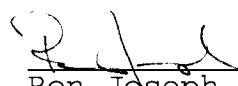
WHEREFORE, the complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, that the Division issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A36763, heretofore issued to respondent Jose Lillo, M.D.;

2. Ordering respondent to pay the Board the actual and reasonable costs of the investigation and enforcement of this case;

3. Taking such other and further action as the Division deems necessary and proper.

DATED: March 26, 1996.



Ron Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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